

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKETED

THE GOVERNMENT'S AND THE DEFENDANTS' STATUS
REPORT PURSUANT TO LOCAL RULE 116.5(A)

The United States of America, by Michael J. Sullivan, United States Attorney for the District of Massachusetts, Attorney Joseph Bernard, counsel for Luz Torres, Attorney Lori Levinson, counsel for Gabriel Ortiz, and Attorney Mark Mastroianni, counsel for Luis Rivera, hereby submit the following status report pursuant to Local Rule 116.5(A) and Magistrate Judge Neiman's written orders.

1. The Government has provided or made available all of its discoverable information

2. The parties do not anticipate additional discovery as the result of future receipt of information.

3. The defendants do not intend to raise a defense of insanity or public authority.

4. The government has requested notice of alibi by the defendants and there has been no response by the Defendant.

5. The Defendant has not yet filed but may file, a motion to dismiss, or suppress, or other motion requiring a ruling by the District Court before trial pursuant to Fed. R. Crim. Pro. 12(c).

6. The parties request this Court to set a date for a further status. Attorney Bernard has experienced technical difficulties in accessing the DVD recording provided by the government, and we are in the process of determining whether the DVD is defective, or Attorney Bernard's computer system is incapable of playing the DVD. Attorney Levinson also needs additional time to review the recordings with Defendant Ortiz, and to prepare any necessary pretrial motions. In light of the above, the parties request a further status date. The parties also request this court exclude the delay from August 2, 2005 through the next hearing date (to be scheduled on October 7, 2005) from the Speedy Trial Act in the interests of justice pursuant to 18 U.S.C. Section 3161(h) (8) (A) and Local Rule 112.2(A) (1), (2), and (3). In addition to the necessary delay concerning the discovery, a reason for the excludable delay is continuity of counsel. Attorney Mastroianni has had a very busy schedule in state court. Accordingly, the government requests that the Court issue an order indicating that the time from initial appearance to the present is excludable pursuant to Local Rule 112.2(B).

7. The parties have conducted preliminary plea

negotiations. Presently, Defendant Rivera appears inclined to change his plea to guilty. It is premature to notify the Court as to whether either Defendant Torres or Defendant Ortiz will decide to change their plea.

8. In the event that a trial is necessary the trial will last approximately 5 days.

9. A date convenient with the Court should be established for a final status conference.

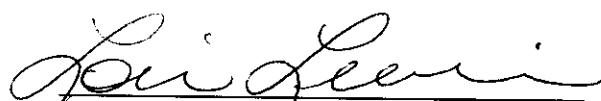
Filed this 6th day of October, 2005.

Respectfully submitted,

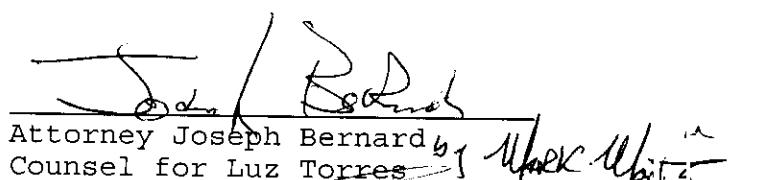
MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Paul Hart Smyth

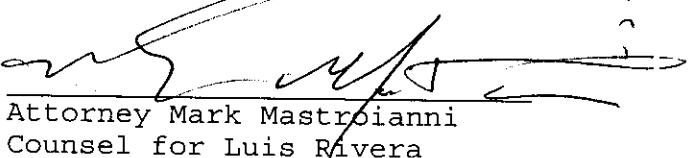
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Attorney Lori Levinson
Counsel for Gabriel Ortiz



Attorney Joseph Bernard
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